

RULEMAKING ISSUE NOTATION VOTE

April 20, 2001

SECY-01-0066

FOR: The Commissioners

FROM: William D. Travers
Executive Director for Operations

SUBJECT: PROPOSED RULE: MATERIAL CONTROL AND
ACCOUNTING AMENDMENTS

PURPOSE:

To request Commission approval to publish a proposed rule that would amend 10 CFR Parts 51, 61, 70, 72, 73, 74, 75, 76, and 150. The proposed amendments would revise the reporting requirements for submitting Material Balance Reports and Inventory Composition Reports to provide more flexibility and to reduce reporting frequency for most licensees. The proposed amendments would also revise the categorical exclusion for approving safeguards plans, relocate the remaining material control and accounting (MC&A) requirements in Part 70 to Part 74, make the MC&A requirements for Category II facilities more risk-informed, and make other miscellaneous changes. These proposed amendments would reduce unnecessary burden on licensees and the U.S. Nuclear Regulatory Commission (NRC) with no adverse effect on public health and safety or the environment.

BACKGROUND:

A task force comprised of Nuclear Material Safety and Safeguards staff conducted a review of the nuclear material reporting requirements in place for licensees. The task force recommended modifying the submittal time for material status reports to coincide with the time of a facility's physical inventory.

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In addition, in 1982, the staff initiated an effort to move the MC&A requirements from Part 70 to Part 74 and to make the requirements more risk-informed. The requirements for Categories I and III facilities have been moved to Part 74. The requirements for Category II facilities and the general MC&A requirements are still located in Part 70. The requirements for Category II facilities would also be converted to more risk-informed requirements.

In a Staff Requirements Memorandum dated July 19, 2000, on SECY-00-0148 (Attachment 1), the Commission approved the rulemaking plan to revise the MC&A requirements.

DISCUSSION:

The current regulations require material balance reports (DOE/NRC-742) and inventory composition reports (DOE/NRC-742C) to be completed within 30 days of March 31 and September 30 of each year. These reports are typically based on book values as opposed to physical inventory results because the dates do not always coincide with the timeframe for a facility's physical inventory. The proposed rule would change the reporting timeframe to coincide with the requirement for a physical inventory and provide additional time to complete the report. Because most licensees are only required to conduct an annual physical inventory, this would result in a decrease in reporting frequency from twice a year to once a year. For Category I facilities, which are required to conduct physical inventories twice a year, the frequency would remain the same, but would be synchronized with the physical inventories rather than being conducted on arbitrary fixed dates. Category II facilities are currently required to conduct physical inventories every 2 to 6 months, depending on the material; the proposed rule would change the frequency to every 9 months. By revising the timeframe to complete the reports to coincide with the physical inventory and providing additional time to complete the paperwork, the licensee would be provided with more flexibility and unnecessary regulatory burden would be reduced. Both reactor licensees and material licensees would benefit from these changes. The industry has indicated support for this initiative through the Nuclear Materials Management and Safeguards System (NMMSS) users group.

The current MC&A requirements for Category II facilities and the general MC&A requirements are interspersed among the safety and general licensing requirements of Part 70. The proposed amendments would consolidate the MC&A requirements for Category II facilities with the rest of the MC&A requirements for Categories I and III facilities in Part 74. The general MC&A requirements would also be moved to Part 74. Further, portions of the current rules regarding Category II material in Part 70 are not risk-informed. Some of the current requirements for Category II facilities are more restrictive than those for Category I facilities. These requirements would be made more risk-informed, consistent with the existing MC&A requirements for Categories I and III facilities. Conforming changes would also be made to Parts 61, 73, 75, 76, and 150 to reflect the relocations. The relocation of the MC&A requirements and the modification to the Category II requirements would enhance the regulatory process by providing any future Category II licensees with a better understanding of the procedures and requirements for MC&A. Removal of the remaining MC&A requirements from Part 70 would also simplify locating the requirements for all licensees.

In addition, the categorical exclusion for the requirement to perform an environmental review would be broadened to include amendments of safeguards plans, as well as be made general enough to cover all safeguards plans and amendments for all licenses issued under NRC authority in 10 CFR Chapter 1. This would avoid the need to amend the subsection when new licensing parts are added. The proposed rule would also correct typographical errors, remove old implementation dates, and update and add some terminology to reflect current practice.

The proposed rule would reduce unnecessary regulatory burden on both licensees and the NRC staff, while maintaining adequate safeguards. There would be no impact on safety. The MC&A requirements for Category II facilities and the general MC&A requirements for all facilities would be easier to locate, thereby improving the efficiency and effectiveness of the regulations. The operational efficiency of NMMSS contractor should be improved as it will no longer get all the material status reports simultaneously. Public confidence should be enhanced by the proposed rule change as a result of the improved consistency and clarity of the regulations.

AGREEMENT STATE ISSUES:

Changes impacting 10 CFR 70.51(a) and (b), and conforming changes to Part 61, 10 CFR 70.19(c), and 10 CFR 150.20(b) and new 10 CFR 74.19(a) are classified as Category C compatibility items. A conforming change to 10 CFR 70.8(b) is a Category D compatibility item. Although these sections are subject to various degrees of compatibility regarding the Agreement States, the proposed amendments are not expected to impact existing Agreement States regulations. The actual requirements are not changing, they are only being moved to a new location. Therefore, it is not expected that Agreement States will need to make conforming changes to their regulations. The rest of the changes are Category NRC compatibility items and therefore, are areas of NRC exclusive authority.

COORDINATION:

The Office of the General Counsel has no legal objection to the proposed rulemaking. The Office of the Chief Financial Officer has reviewed this Commission Paper for resource implications and has no objections. The rule contains changes in information collection requirements that must be submitted to the Office of Management and Budget (OMB) no later than the date the proposed rule is forwarded to the Federal Register for publication.

RECOMMENDATIONS:

That the Commission:

1. Approve for publication, in the Federal Register, the proposed amendments to Parts 51, 61, 70, 72, 73, 74, 75, 76, and 150 on material control and accounting (Attachment 2).
2. Note:
 - a. That the proposed amendments will be published in the Federal Register, allowing 75 days for public comment.
 - b. That the Chief Counsel for Advocacy of the Small Business Administration will be informed of the certification and the reasons for it, as required by the Regulatory Flexibility Act, 5 U.S.C. 605(b).
 - c. That a draft Regulatory Analysis has been prepared for this rulemaking.
 - d. That a draft Environmental Assessment has been prepared for this rulemaking (Attachment 3).

- e. That appropriate Congressional committees will be informed of this action.
- f. That a press release will be issued by the Office of Public Affairs when the proposed rulemaking is filed with the Office of the Federal Register.
- g. OMB review is required and a clearance package will be forwarded to OMB no later than the date the proposed rule is submitted to the Office of the Federal Register for publication.
- h. That resources to complete and implement this rulemaking are included in the current budget.

/RA/

William D. Travers
Executive Director
for Operations

Attachments:

1. Staff Requirements Memorandum dated July 19, 2000
2. Federal Register Notice
3. Draft Environmental Assessment

- d. That a draft Environmental Assessment has been prepared for this rulemaking (Attachment 3).
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